

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 221 (Senator Kelley, *et al.*)
Judicial Proceedings

Sexual Offenses - Polygraph Examination of Alleged Victims - Prohibited

This bill prohibits a State's Attorney, law enforcement officer, or any other person involved in investigating or prosecuting a sexual offense from requiring the alleged victim of the offense to submit to a polygraph examination. The bill carves out two exceptions: (1) where the alleged victim requests to take a polygraph examination; and (2) where the alleged victim has previously made a false statement, report, or complaint regarding a sexual offense violation.

Fiscal Summary

State Effect: The bill is expected to apply in a limited number of cases, because rape victims are not often required to submit to polygraph examinations. Government finances should not be affected.

Local Effect: None -- see above.

Small Business Effect: None.

Analysis

Current Law: Statutes relating to polygraph examinations are limited to civil labor and employment laws and investigation of law enforcement officers for wrongdoing. Maryland case law precludes the admission of polygraph examination results in criminal trials. *Kelley v. State*, 288 Md. 298 (1980). Although the results of polygraph tests are inadmissible in court, law enforcement officials may attempt to use polygraph testing as part of criminal investigations.

Pursuant to the Maryland Rules applying to circuit court criminal cases, the results of a polygraph examination conducted by a State expert are discoverable upon request by the defendant, regardless of whether or not they contain exculpatory evidence. *Patrick v. State*, 329 Md. 24 (1992).

Background: At least five other states (Colorado, Connecticut, Illinois, Iowa, and Oregon) have laws prohibiting law enforcement from requiring alleged victims of sexual offenses to submit to a polygraph examination.

Additional Information

Prior Introductions: A similar bill was introduced in the 2001 session as SB 106; it received an unfavorable report from the Judicial Proceedings Committee. A similar bill was introduced in the 2000 session as SB 155, but it was withdrawn by the sponsor. A similar bill was introduced in the 1999 session as SB 640; it received an unfavorable report from the Judicial Proceedings Committee.

Cross File: HB 248 (Delegate Grosfeld, *et al.*) – Judiciary.

Information Source(s): State’s Attorneys’ Association, Judiciary (Administrative Office of the Courts), Public Defender’s Office, Department of Legislative Services

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